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Attorneys for Defendants. ESA P PORTFOLIO, L.L.C. and
ESA MANAGEMENT, LLC

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MICHAEL PATTON,) Case No.: 1:20-cv-01498-DAD-SKO
Plaintiff,)
vs.) **STIPULATION RE FIRST AMENDED
COMPLAINT AND LEAVE FOR
PLAINTIFF TO FILE SECOND
AMENDED COMPLAINT AND ORDER**
EXTENDED STAY AMERICA, INC., ESA P)
PORTFOLIO, L.L.C., ESA P PORTFOLIO) (**Doc. 41**)
OPERATING LESSEE, INC., ESA)
MANAGEMENT, LLC and DOES 1 – 50,) Action Filed: October 21, 2020
Defendants.) Trial Date: None Set
)

WHEREAS, Plaintiff MICHAEL PATTON, filed and served his First Amended Complaint (ECF No. 36) on December 6, 2021 and Defendants responsive pleading due on Monday January 10, 2022 per this court order (ECF No. 38)

WHEREAS, this requested stipulation will not impact the court modified scheduling order (ECF No. 33)

WHEREAS, the attorneys for the parties have met and conferred in good faith regarding and inadvertent error in the First Amended Complaint wherein it names two dismissed defendants, EXTENDED STAY AMERICA, INC. and ESA P PORTFOLIO OPERATING LESSEE, INC. (ECF No. 20)

WHEREAS, the parties by and through their attorneys stipulate as follows:

COMES NOW, Plaintiff MICHAEL PATTON and Defendants ESA P PORTFOLIO, L.L.C. and ESA MANAGEMENT, LLC, by and through their respective attorneys of record and stipulate that Plaintiff Michael Patton is allowed to file and serve a Second Amended Complaint that mirrors the First Amended Complaint with the exception that paragraphs 3 and 5 as set forth in First Amended Complaint will be eliminated and the Second Amended Complaint will also eliminate any and all references to either Defendant, EXTENDED STAY AMERICA, INC. and \ or Defendant, ESA P PORTFOLIO OPERATING LESSEE, INC. It is further stipulated that Defendants need not file responsive pleadings to the First Amended Complaint. Plaintiff will file his Second Amended Complaint within 14 days of the date of this order. Defendants, ESA MANAGEMENT, LLC AND ESA P PORTFOLIO, L.L.C. will file their responsive pleading within 14 days of the filing of Second Amended Complaint.

DATED: January 10, 2022

ERICKSEN ARBUTHNOT

By

CHARLES S. PAINTER
REBECCA L. MENENDEZ
Attorneys for Defendants ESA P
ORTFOLIO, L.L.C. and
ESA MANAGEMENT, LLC

1 DATED: January 10, 2022

VICKERY & SHEPHERD, LLP

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3 By

/s/ *Fred Shepherd (as authorized 1-10-2022)*

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5 FRED SHEPHERD
6 Attorney for Plaintiff MICHAEL
7 PATTON

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ORDER

10 In view of the parties' forgoing stipulation (Doc. 41), and for good cause shown, it is
11 hereby ORDERED that:

12 1) Defendants do not have to file responsive pleadings to the First Amended Complaint;
13 2) Plaintiff is granted leave to file his Second Amended Complaint which will mirror the
14 allegations of First Amended Complaint with the following modifications:

15 Paragraphs 3 and 5 of the First Amended Complaint will be eliminated and all
16 references to either Defendants, Extended Stay America, Inc. and \ or ESA P Portfolio,
17 L.L.C. will be eliminated in the Second Amended Complaint;

18 3) Plaintiff will file his Second Amended Complaint within 14 days of the date of this
19 order; and

20 4) Defendants will file their responsive pleadings within 14 days of the date the Second
21 Amended Complaint is filed.

22 IT IS SO ORDERED.
23

24 Dated: January 11, 2022

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26 /s/ *Sheila K. Oberto*
27 UNITED STATES MAGISTRATE JUDGE
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